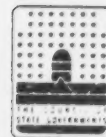


A4375-9.1 F 3/87

STATE CREDENTIALING OF THE
HEALTH OCCUPATIONS AND PROFESSIONS



The National
Clearinghouse on Licensure,
Enforcement and Regulation



The Council of
State Governments

Copyright 1986
The Council of State Governments
Iron Works Pike
P. O. Box 11910
Lexington, Kentucky 40578

Manufactured in the
United States of America

C-40
\$25.00

PREFACE

States regulate over fifty health occupations and professions. Each state legislature determines which health occupations and professions the state will regulate, the type of credential, the scope of practice of the profession, and the administrative and policymaking structures which will carry out the ongoing regulatory functions.

The Council of State Governments has published a series of research reports beginning in 1952 with Occupational Licensing in the States, designed to provide policymakers with comparative state information on state occupational and professional regulation issues. In 1984 the Council of State Governments and the National Clearinghouse on Licensure, Enforcement and Regulation (CLEAR) were awarded a three-year project on Analysis and Exchange of Information and Data on State Credentialing of Health Personnel, by the Bureau of Health Professions, Health Resources and Services Administration, Public Health Service, U.S. Department of Health and Human Services. Under this project, the state statutes and administrative regulations pertaining to some 45 health occupations and professions have been collected. Using these laws, staff have compiled tables on the nature of state credentialing, including the structures, state credentialing requirements, and inter-state reciprocal agreements for twelve health occupations and professions.

This report -- State Credentialing of the Health Occupations and Professions -- is one of two reports produced during the project's first year. Special thanks for their expert advice and oversight during the project's first year are due to the Health Professions Licensure Information System Advisory Committee members: Dr. Joseph Hamburg, Professor, University of Kentucky Medical School; Helen Herring, LCSW, Partner, Herring, Reeb and Associates; Barbara Nichols, RN, Secretary, Wisconsin Department of Regulation and Licensing; Dr. Benjamin Shimberg, Senior Research Associate, Educational Testing Service; Sara Townsend, Majority Whip, New Hampshire House of Representatives; and William L. Wood, Jr., attorney-at-law, Scarsdale, New York.

The Project Director has been Frances Stokes Berry, the Council of State Governments Program Manager for Licensure and Regulation, and Director of CLEAR. Ed Bowling, Mark Ford, Ellen Hume and Dorrie Mazzone have served as research assistants for the project. Blessing Brown has been the project's secretary and meeting coordinator. Pat Bancroft and Joy Pettit have ably assisted in typing the project's reports.

The Project Officer has been B. Jerald McClendon,

Bureau of Health Professions, HRSA, U. S. Department of Health and Human Services. He has given excellent counsel to the project's staff.

Thanks are also extended to the people and organizations who reviewed the report's first draft and made comments on its substance and fact. Any remaining errors, however, are the full responsibility of the report's authors. The reviewers include: Marsha Kelly, National Council of State Boards of Nursing; Sheila Denton, Executive Director, National Association of Physical Therapy; Karen Mullinax, Chair, Political and Economic Affairs Committee, American College of Nurse-Midwives; Thomas Speer, Director of Professional Relations, American Chiropractic Association; and Jane Acquaviva, Assistant Director, Government and Legal Affairs Division, American Occupational Therapy Association, Inc.

The Council of State Governments and CLEAR gratefully acknowledge the Health Resources and Services Administration's support under Contract #240-84-0094, without which this project could not have been undertaken.

Carl Stenberg, Exec. Dir.
Council of State Governmens

Wellington Webb, Exec. Dir.
CO Dept. of Reg. Affairs
Chairman, CLEAR

TABLE OF CONTENTS

	Page
Preface	i
I. Introduction	1
II. State Regulation of Health Occupations and Professions	13
III. State Laws Pertaining to Health Professions Credentialing Enacted in 1985	17
IV. Major Court Decisions Pertaining to Credentialing in 1984	27
V. State Regulation of Acupuncture	31
VI. State Regulation of Chiropractic Medicine	46
VII. State Regulation of Licensed Practical Nurses	72
VIII. State Regulation of Registered Nurses, Nurse Practitioners, and Nurse Midwives	95
IX. State Regulation of Occupational Therapy	133
X. State Regulation of Physical Therapy	151
XI. State Regulation of Podiatric Medicine	174
XII. Health Professions Under State Sunset Review	197
XIII. Health Professions Under State Sunrise Review	206
XIV. Resources	211



CHAPTER I
INTRODUCTION

2

7



INTRODUCTION

Background

States have regulated health professions for over a hundred years, beginning with the licensure of physicians in the 1850's. Today it is estimated that over 800 occupational titles are regulated by one or more states, and the large majority of them are in the health fields.

Since 1965, vast changes have taken place in America's health delivery systems and the utilization of trained health personnel in them. New technology and the resulting specialization of health personnel have contributed to a large increase in the numbers of allied health occupations, and have redefined the scope of practice for established and emerging health professions alike. Representatives from many of the newer allied health occupations have gone to state legislatures to request state regulation of their occupation. In 1984, new licensure bills were enacted regulating radiologic technologists, occupational therapists, respiratory therapists, counselors, physical therapists and physician's assistants.

The impact of state licensure is anti-competitive. Licensure restricts who may provide certain services by requiring educational and experiential standards before a license is granted. Once a profession is licensed, no one may practice that profession without having a current license. By restricting the number of people entering a profession and by limiting the ability of emerging professions to work independently, licensure sometimes results in increased costs to consumers.

Since licensing requirements vary from state to state and by profession, the mobility of practitioners can be hampered. In addition,

reciprocity laws sometimes prohibit professionals from practicing in all states. The result can be an oversupply in one geographical area and a dire need for the service in another. Scope-of-practice statutes for established professions may unnecessarily restrict services that auxiliary professions provide and cause auxiliaries to be underused.

During the 1970's, both the state and federal governments gave increased attention to health professions credentialing. At the federal level, the U.S. Department of Health, Education and Welfare sponsored a series of task forces and studies on health occupational credentialing. A 1971 Report on Licensure and Related Health Personnel Credentialing looked at the impact of state credentialing on the health care system and recommended increased emphasis on high-quality, private-agency credentialing. The report also recommended a "two-year moratorium on the enactment of legislation that would establish new categories of health personnel with statutorily-defined scopes of functions". Two years later, a second report entitled Developments in Health Manpower Licensure further chronicled what states were doing regarding health occupational credentialing since the 1971 report was issued.

And finally, a 1977 report, A Proposal for Credentialing Health Manpower, recommended that a national certification commission be established to develop, evaluate and oversee national standards for private certifying agencies in health occupations.

At the state level, interest in regulatory reform during the 1970's gave rise to sunset laws. Passed by 36 states, sunset laws schedule occupational licensing boards and state agencies for periodic performance audit reviews. Each scheduled board or agency will automatically terminate on an appointed date unless the legislature acts affirmatively to enact legislation preserving and extending the regulatory functions.

More recently, states have established sunrise processes to review requests for licensure from representatives of unregulated health occupations. Generally, the process includes a series of cost/benefit and other questions which require the requesting occupation to shoulder the burden of proof that occupational regulation is necessary to protect the public.

Type of State Credentialing

State regulation of health occupations and professions takes three forms: licensure, certification and registration. The three types of state credentialing provide different levels of restrictions on entry into the occupation or profession, with licensure being the most restrictive form of state credentialing and registration the least restrictive. Specifically, licensure restricts the scope of practice so that it is illegal for a non-licensed person to perform the covered services. Through licensure laws, states specify the minimum educational and training requirements needed by applicants, administer an exam, issue and renew licenses, and establish enforcement procedures to discipline incompetent or fraudulent practitioners.

Certification generally refers to a credential issued by a non-government agency or association which recognizes an individual's achievements of predetermined competence and standards. But states adopt "statutory certification," which limits use of particular titles to persons meeting predetermined requirements, and for the purpose of this report, "certification" is "statutory certification."

Registration is the least restrictive form of state regulation. It can be as simple as requiring a person to provide his name, address and training to a state agency or registration can require individuals to first